



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,165	07/30/2001	Jurgen Wirth	Mo-6423 HE-161	2125

157 7590 08/27/2003
BAYER POLYMERS LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

EXAMINER

DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
----------	--------------

1722

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,165

Applicant(s)

WIRTH ET AL.

Examiner

Joseph S. Del Sole

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5,7,10 and 11 is/are rejected.
- 7) ☒ Claim(s) 6,8,9 and 12 is/are objected to.
- 8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4, drawn to a process of making reinforced plastic moldings, classified in class 264, subclass 514.
 - II. Claims 5-12, drawn to an apparatus for making reinforced plastic moldings, classified in class 425, subclass 112.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another and materially different apparatus such as an apparatus including a mold, or an apparatus including a rotary cam mechanism for closing the mold, or an apparatus including a moveable shaft or rod for removing the molded article.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Lyndanne M. Whalen (by Examiner Tentoni, GAU 1732) on July 23, 2003 a provisional election was made with traverse to

Art Unit: 1722

prosecute the invention of Group II, claims 5-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-4 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

6. The information disclosure statements filed 10/11/2001 and 8/1/2003 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP 609. It has been placed in the application file and the information referred to therein has been considered as to its merits.

Drawings

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "24". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

8. Should the application eventually be allowed, and the process claims cancelled, the title of the invention would not be properly descriptive. A new title would be required that is clearly indicative of the invention to which the claims are directed, that being apparatus only. The Examiner suggests changing the title to -- Device for the production of moldings of plastic reinforced with long fibers --.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

Art Unit: 1722

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 5, 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley (5,338,169) in view of Castelli (3,669,328).

Buckley teaches a device having a bearing seat for coils of continuous threads or rovings (Fig 1, #3); a guide for the continuous thread or rovings which leads the threads or roving from the bearing seat to a movement controlled introducing device and ends at a cutting unit (Fig 1); the movement controlled introducing device for introducing a liquid stream (Fig 1, #2); the cutting unit with a conveying device (Fig 1, #20); the guide has a rigid pipeline system (Fig 1, #28); the guide on the introducing device is separated from the rigid pipeline system (Fig 1; the claim is open to multiple interpretations here because claim 5 states that the "guide... comprises... a rigid pipeline system" and claim 7 states that "the guide... is separated from the rigid pipeline system", therefore the Examiner interprets the claims such that the guide is comprised of multiple structures that are separable); the rigid pipeline system has pipe bends and an air inlet (Fig 1, #28, the same opening for the threads allows air) arranged behind at least one of the pipe bends; and the guide has at least one conveying air inlet (Fig 1, #28, since the guide is comprised of a rigid pipeline system, the same air inlet in the pipeline is a conveying air inlet for the guide, however the cutter also has an inlet which reads on the claimed conveying air inlet).

Art Unit: 1722

Buckley fails to teach the rigid pipeline system having at least one tensioning air inlet directed against the conveying direction.

Castelli (3,669,328) teaches a rigid pipeline system (Fig 3, A and Fig 4, B) having at least one tensioning air inlet directed against the conveying direction (Fig 3, #3 and Fig 4, #15) for the purpose of controlling the movement of the fiber, including braking (col 2, line 61 - col 3, line 3).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Buckley with a tensioning air inlet directed against the conveying direction as taught by Castelli because it enables greater control of the movement of the fiber.

13. Claims 5, 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley (5,338,169) in view of Peat et al (1469533).

Buckley teaches a device having a bearing seat for coils of continuous threads or rovings (Fig 1, #3); a guide for the continuous thread or rovings which leads the threads or roving from the bearing seat to a movement controlled introducing device and ends at a cutting unit (Fig 1); the movement controlled introducing device for introducing a liquid stream (Fig 1, #2); the cutting unit with a conveying device (Fig 1, #20); the guide has a rigid pipeline system (Fig 1, #28); the guide on the introducing device is separated from the rigid pipeline system (Fig 1; the claim is open to multiple interpretations here because claim 5 states that the "guide... comprises... a rigid pipeline system" and claim 7 states that "the guide... is separated from the rigid pipeline system", therefore the Examiner interprets the claims such that the guide is comprised of multiple structures

Art Unit: 1722

that are separable); the rigid pipeline system has pipe bends and an air inlet (Fig 1, #28, the same opening for the threads allows air) arranged behind at least one of the pipe bends; and the guide has at least one conveying air inlet (Fig 1, #28, since the guide is comprised of a rigid pipeline system, the same air inlet in the pipeline is a conveying air inlet for the guide, however the cutter also has an inlet which reads on the claimed conveying air inlet).

Buckley fails to teach the rigid pipeline system having at least one tensioning air inlet directed against the conveying direction.

Peat et al teach a rigid pipeline system (Fig 1) having at least one tensioning air inlet directed against the conveying direction (Fig 1, #4) for the purpose of tensioning and taking up slack in fiber conveyed (page 4, lines 44-47).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Buckley with a tensioning air inlet directed against the conveying direction as taught by Peat et al because it enables greater control of the movement of the fiber, including tensioning and taking up slack.

References of Interest

14. Morrison et al (6,251,185), Monstinger (5,447,793), Kelman (5,536,341), Dahl et al (6,497,566), Dahl et al (6,527,533), Dahl et al (6,540,495) and Montsinger (6,604,927) are cited of interest to show the state of the art.

Art Unit: 1722

Allowable Subject Matter

15. Claims 6, 8-9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the guide one the movement-controlled introducing device having a flexible guide hose connected to the rigid pipeline system; the guide on the introducing device has an intake funnel into which the continuous thread or roving runs; or in which the flexible guide hose is connected to the rigid pipeline system and has a length which compensates for any movement of the introducing device in combination with limitations of the parent claims.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Joseph S. Del Sole

J.S.D.
August 22, 2003

Robert Davis

ROBERT DAVIS
PRIMARY EXAMINER
GROUP 4300 1700

8/22/03